

**Internal Revenue Service**  
TEGE Appeals Programs  
300 N. Los Angeles Street  
Los Angeles, CA 90012

**Department of the Treasury**  
**CERTIFIED**

Release Number: **201129056**  
Release Date: 7/22/2011  
Date: April 27, 2011

**A**

**B**

**Taxpayer Identification Number:**

**C**

**Person to Contact:**

Employee ID Number: '

Tel:

Fax:

**Refer Reply to:**

AP:LA:EMW

**In Re:** Exempt status

**Tax Years:** and subsequent  
years

**UIL Index:**

501.03-03

501.33-00

Dear

This is a final adverse determination as to your application for exempt status under section 501(a) of the Internal Revenue Code as an organization described under section 501(c)(3). Our adverse determination was made for the following reason(s):

You are not operated exclusively for an exempt purpose enumerated in section 501(c)(3) of the Code. You have failed to show that your activities are educational within the meaning of section 1.501(c)(3)-(d)(3)(i) of the Regulations. Furthermore, you have failed to establish that you are operated exclusively for an exempt purpose rather than for the benefit of private interests thereby violating the proscription against private benefit.

If you decide to contest this determination under the declaratory judgment provisions of Code section 7428, a petition to the United States Tax Court, the United States Court of Claims, or the district court of the United States for the District of Columbia must be filed before the 91<sup>st</sup> (ninety-first) day after the date this determination was mailed to you. Contact the clerk of the appropriate court for rules for filing petitions for declaratory judgment. To secure a petition form from the United States Tax Court, write to the United States Tax Court, 400 Second Street, N.W., Washington, D.C. 20217.

You also have the right to contact the Office of the Taxpayer Advocate. However, you should first contact the person whose name and telephone number are shown above since this person can access your tax information and can help you get answers. You can call 1-877-777-4778, and ask for Taxpayer Advocate assistance.

Taxpayer Advocate assistance cannot be used as a substitute for established IRS procedures, formal appeals procedures, etc. The Taxpayer Advocate is not able to reverse legal or technically correct tax determinations, or extend the time fixed by law that you have to file a petition in the United States Tax Court. The Taxpayer Advocate, can however, see that a tax matter, that may not have been resolved through normal channels, gets prompt and proper handling.

We will notify the appropriate State officials of this final adverse determination of your exempt status, as required by Code section 6104(c).

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Karen A. Skinder". The signature is fluid and cursive, with a large initial "K" and "S".

Karen A. Skinder  
Appeals Team Manager

cc:



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
WASHINGTON, D.C. 20224

TAX EXEMPT AND  
GOVERNMENT ENTITIES  
DIVISION

Date:

ORG  
ADDRESS

Contact Person:  
Identification Number:  
Contact Number:  
FAX Number:  
Employer Identification Number:

**LEGEND:**

A = Date  
B = State  
C = Date  
D = EMP  
E = EMP  
F = DATE  
G = CO-1  
H = CO-2  
J = CITY  
L = CO-3  
M = CITY  
N = CO-4  
O = CO-5  
P = CO-6  
XX = DATE

**UIL:**

501.03.30  
501.03-08  
501.33-00

Dear

We have considered your application for recognition of exemption from Federal income tax under Internal Revenue Code section 501(a). Based on the information provided, we have concluded that you do not qualify for exemption under Code section 501(c)(3). The basis for our conclusion is set forth below.

Issues:

1. Are you organized and operated exclusively for Section 501(c)(3) purposes?
2. Are you operating to primarily serve the private interests of your founder?

Facts:

You were originally incorporated on A in B with a stated purpose of investigating academic fraud. You filed Articles of Amendment on C, and amended your purposes as follows:

"The specific purpose of the corporation is to advocate for the legal rights of an unrepresented charitable class of Federal Student Loan recipients and lenders of the O.

. The articles also indicate that you will:

- 1) Investigate State administered Student Loan Programs on improprieties under the Guidelines of the Higher Education Act.
- 2) Litigate for Collateral Restitution.
- 3) Commission a report on institutional misconduct.
- 4) Reimburse members of the charitable class and O lenders under the P.

Prior to incorporation, the founder, D as an individual, brought about the following actions:

In 19XX, D as an individual filed a complaint alleging academic fraud and civil rights violations with the B vice chancellor for student affairs at University of B on activities of academic fraud and civil rights violations.

In 19XX, D as an individual filed a complaint with the U.S. Department of Education's Office for Civil Rights. The federal agency did not review the alleged violations under Title VI of the Civil Rights Act of 19XX of whether administrators at the University of B knowingly and intentionally denied African American students course repeats (Good Academic Standing) at the University of B campus on the basis of race; (ii) whether faculty coercion activities knowingly and intentionally violated the faculty code of conduct on the basis of race and whether faculty members, knowingly and intentionally destroyed important documents to conceal evidence of academic fraud on the basis of race.

In 20XX, D as an individual filed a complaint alleging that faculty members violated the Faculty Code of Conduct with the University of B at J which was returned for defects.

In December 20XX, the U.S. Supreme Court rescinded the statute of limitations on defaulted student loans to collect defaulted student loans by offsets paid through Social Security Benefits. There were then federal offsets made against D's social security benefits. Shortly after this, you were formed.

Since incorporation, your activities primarily consist of repeatedly filing public record requests with state agencies and filing complaints in local and Federal courts. Several of these filings show you and D as Petitioners. These actions focus on E for his role in the passage of F, an initiative chaired by E that amended B's constitution. You claim that the passage of F increased foreign student admissions and thus an increase in the number of foreign graduates furthering the objective of covert undercover operations in the United States facilitated by the activities of E and his organizations G & H. E is the founder of organizations G and H. Your requests and complaints consisted of the following:

In September 20XX, you filed a complaint with M's Department of Consumer and Regulatory Affairs alleging that the Federal tax-exempt status of G and H had been revoked by the M. This complaint also charged that these organizations may have registered false addresses in B and have operated under a revoked corporate statute in B. The complaint also charged that E violated a number of tax codes, failed to register his tax exempt organizations' with M's

Department of Tax and Revenue and failed to pay M's taxes. You retained a law firm to complete a forensic tax analysis into E's tax exempt organizations G and H. In March 20XX, the Criminal Investigations Office of the local district attorney's office wrote the following:

"No credible evidence to support a finding other than the fact that G and H's officials' actions were anything other than an oversight in failing to file required documents and the paying of fees." "once the oversight was discovered officials took immediate steps to come into compliance with the tax exempt regulations in all three jurisdictions".

In December 20XX you filed a complaint with the Department of Treasury alleging that E was involved in tax evasion. The Department of Treasury acknowledged receipt of the information.

In February 20XX you requested statistics from the State Department to prove allegations that E was facilitating a Chinese Covert operation to increase Chinese student enrollment in American Universities. Because the statistics provided to you showed an increase in the number of Chinese students attending American universities, you wrote that this supported your allegations.

In March 20XX, you filed an identical complaint to D's complaint filed as an individual in 20XX with the Academic Senate and Board of Regents. You alleged in this complaint that faculty members wrote fraudulent evaluations of African American Students and violated the Faculty Code of Conduct. The complaint was returned to you for the same defects as in 20XX.

In October 20XX, you hired attorneys in order to look for indications that E:

- a. Was an unregistered foreign agent whose initiatives, masked as civil rights proposals so as to circumvent the 14<sup>th</sup> amendment of the US Constitution, were designed to increase the number of foreign students enrolled in scientific programs in US colleges and universities.
- b. Abused his position as a member of the B Board of Regents by failing to disclose a conflict of interest with respect to a transaction approved by them.
- c. Abused his position as a member of the Board of Regents by failing to disclose a conflict of interest regarding his affiliation with the B Civil Rights Initiative.
- d. Used tax exempt corporations to deceive voters and tax payers about the true nature of his activities in the interest of a foreign government.

As a result, the attorneys conducted an analysis of the Form 990's of G and H. In January 20XX Letters were sent by the attorneys to the IRS, focusing on discrepancies that appear on the Form 990 filed by G and H and listing possible violations by G and H and compensation paid to E by G and H. The Attorney's also sent a letter to M's office of Tax and Revenue. The IRS acknowledged receipt of this information.

In July 20XX, you filed a record request under the B Public Records Act for all records concerning E's role in the passing of F from the office of the then B governor during the passing of F. These records were sealed for at least 50 years by executive privilege. The B attorney general responded that the records you sought did not fall into any of the statutory exceptions.

In January 20XX, you filed a complaint with the B Fair Political Practices Commission, alleging that E committed several violations of the B Political Reform Act in order to end affirmative action in B. In April 20XX, the commission responded that after reviewing your allegations and supporting documentation, the alleged violations are beyond the 5-year statute of limitations for commencing any administrative action and there were no facts presented or evidence presented that would allow for tolling of the statute of limitations.

In June 20XX, you and D as a private person as co-plaintiffs filed a complaint in the United States District Court for the Eastern District of B requesting judicial review of the decisions by the B Board of Regents, the B Attorney General and the B Fair Practices Commission. This complaint also included an allegation that University of B faculty members conspired to increase the student default rates of student loans in the early 1990s. The proceeds from these loan defaults were then used to finance E's initiative to eliminate affirmative action in B. The complaints also allege that proponents of F discriminated against your founder D and petition the court to remove the federal offset against D and stop all loan collection activities.

You received a proposal from N to raise contributions. You indicated that to date, no contributions were raised through N. You provided financial data showing No Revenue and expenses for Professional fees. You indicated that this is an estimate based on projected litigation expenses. To date though, the only source of income is that from a line of credit from L, a for-profit entity controlled by D. You provided a Line of Credit agreement that was signed by D as both Borrower and the Lender.

To date, your activities have been focused on filing complaints with various State and Federal agencies against E and the two non-profit organizations G and H. You provided a copy of an unsigned petition dated July 27, 20XX with D and you as Plaintiffs and the U.S. Department of Education and the Internal Revenue Service as Defendants which contains various allegations against E, and the two organizations G & H. The petition also included statements of fact regarding discrimination against D and a petition to order the US Department of Education to remove Federal offset against D for defaulted student loans.

Law:

Section 501(c)(3) of the Internal Revenue Code provides, in part, for the exemption from Federal income tax organizations organized and operated exclusively for charitable, religious or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(a)-1(c) of the Regulations states that the words "private shareholder or individual" mean an individual having a personal and private interest in the activities of the organization.

Section 1.501(c)(3)-1(a)(1) of the Regulations states that, in order to be exempt as an organization described in section 501(c)(3) of the Code, an organization must be both organized and operated exclusively for one or more of the purposes specified in that section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.



Section 1.501(c)(3)-1(c)(1) of the Income Tax Regulations provides that an organization will be regarded as operated exclusively for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(c)(2) of the Regulations provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or in part to the benefit of private shareholders or individuals.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations state that: "An organization is not organized and operated exclusively for one or more of the purposes specified...unless it serves a public rather than a private interest. Thus, to meet the requirements...it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled directly or indirectly, by such private interests."

Revenue Ruling 68-263, 1968 1 C.B. describes an organization, a substantial part of the activities of which was the distribution of publications that sought to discredit particular institutions and individuals based on unsupported opinions and incomplete information did not qualify for exemption. The instruction of the public by recognized educational methods on political or moral significance of an extreme doctrine and the threat it represents to the United States may qualify for exempt status under Section 501(c)(3) of the code. However the instant organization attacks against the identified individuals and institutions were not supported by a sufficiently full and fair exposition of the pertinent facts to permit the public to form opinions or judgment independent of those presented and, therefore these activities did not constitute instruction of the public within the meaning of section 1.501(c)(3)-1(d)(3) of the regulations cited above. Since these activities represented a substantial part of the organization's activities, the organization is not exempt from Federal income tax under section 501(c)(3) of the Code.

Revenue Ruling 80-278, 1980-42 IRB 8, 1980-2C.B. 175, 1980 WL 130297 describes an organization that qualified under Section 501(c)(3). Its purpose is to protect and restore environmental quality and whose principle activity consisted of enforcing environmental legislation through instituting litigation as a party plaintiff. This was accomplished by employing private attorneys to conduct litigation activities. In addition, no lawsuits were brought in where a substantial purpose was to benefit private interests.

In making the determination of whether an organization's litigation's activities are consistent with exemption under section 501(c)(3) of the Code, the Service will rely on a three-part test. The organization's activities will be considered permissible under section 501(c)(3) if:

- (1) The purpose of the organization is charitable;
  - (2) The activities are not illegal, contrary to a clearly defined and established public policy, or in conflict with express statutory restrictions;
- And

- (3) The activities are in furtherance of the organization's exempt purpose and are reasonably related to the accomplishment of that purpose.

Revenue Ruling 81-94, 1981-1 C.B. 330 describes an organization that was founded by a professional nurse and was used as a vehicle for handling the nurse's personal financial transactions and thus did not qualify for exemption. It served the private interests of the founder rather than a public interest.

In Old Dominion Box Co. v. United States, 477 F2d 344 (4<sup>th</sup> Cir. 1973) cert. Denied 413 U.S. 910 (1973) the court held that operating for the benefit of private parties constitutes a substantial non-exempt purpose.

Application of Law:

You are not described in Section 501(c)(3) of the Code because you are not organized and operated exclusively for charitable, religious or educational purposes.

You are not as described in section 501(c)(3)-1(a)(1) because you are not organized and operated exclusively for one or more of the purposes specified in that section. You are not organized exclusively for one or more 501(c)(3) exempt purposes since your organizing document, your Articles of Incorporation does not limit your purposes to one or more exempt purposes. You are not operated for exempt purposes since your purposes are to file complaints against E, question the exempt status of G and H, and petition the court that D was discriminated on the basis of race, incurred financial hardship as a result of E's activities and to remove the federal offset against D and cease all loan collection activities.

You are not as described in section 1.501(c)(3)-1(c)(1) and 1.501(c)(3)-1(d)(1)(ii) of the Regulations because more than an insubstantial part of your activities as indicated above further the private interests of D.

You are like the organization in Revenue Ruling 68-263 because your activities have predominately been focused on discrediting E.

You are not like the organization described in Revenue Ruling 80-278, 1980-42 IRB 8, 1980-2C.B. 175. Your litigation is aimed at discrediting E, and in addition is being pursued with the substantial purpose of benefitting the private interest of D.

Because your litigation activities primarily benefit your founder, you are also like the organization described in Revenue Ruling 81-94, 1981-1 C.B. 330, since your petition is to seek equitable indemnity relief, to remove the federal offset and to cease any and all loan collection activities against D.

Finally, you are like the organization described in Old Dominion Box Co. v. United States, 477 F2d 344 (4<sup>th</sup> Cir. 1973) cert. Denied 413 U.S. 910 (1973) since you are operating for the substantial non exempt purpose of benefiting your founder.



Your Position:

You stated you have provided the necessary information to satisfy the requirements in order to qualify under Section 501(c)(3) and the public will benefit through greater transparency of these academic institutions. You contend your activities are serving a public purpose within the meaning of Section 501(c)(3). You also stated in your letter dated Aug 11, 20XX that if the IRS denies tax exemption status, you would rescind the articles of Incorporate (sic) filed with the B Secretary of State as a public corporation and raise capital under a private offering.

Service's response to applicant's position

Your activities have consisted of litigation focused on discrediting E and the non-profit entities formed by him G and H. In addition your petitions are aimed at removing a federal offset and to cease loan collection activities against D. These actions show an overriding purpose to benefit D. Any benefit the public may receive from your operations is incidental to your substantial private purposes.

Conclusion:

Based on the above information we find that you are not organized and operated for exempt purposes within the meaning of Section 501(c)(3). With regard to issue 1, you are not organized for exempt purposes because the language contained in your articles of incorporation is broader than described in Section 501(c)(3). You are not operated for such purposes because your activities are not exclusively charitable, religious or educational. The petitions filed by you do not constitute instruction of the public within the meaning of Section 501(c)(3). In addition, your litigation activities more than insubstantially further the private interests of your founder D.

With regard to Issue 2 we find that you are operating primarily to serve the private interests of your founder D because your activities are similar to activities D conducted prior to your formation. Your activities include D as a co-plaintiff on complaints filed and the complaints specifically ask the courts to remove the federal offset against D and cease any and all loan collection activities against D.

Accordingly we conclude that you do not qualify for exemption under code section 501(c)(3).

Since private interests are furthered we have also determined that you do not qualify under any other subsection of IRC § 501(a).

You have the right to file a protest if you believe this determination is incorrect. To protest, you must submit a statement of your views and fully explain your reasoning. You must submit the statement, signed by one of your officers, within 30 days from the date of this letter.

We will consider your statement and decide if that information affects our determination. If your statement does not provide a basis to reconsider our determination, we will forward your case to our Appeals Office. You can find more information about the role of the Appeals Office in Publication 892, *Exempt Organization Appeal Procedures for Unagreed Issues*.

Types of information that should be included in your appeal can be found on page 2 of Publication 892, under the heading "Regional Office Appeal". These items include:

1. The organization's name, address, and employer identification number;
2. A statement that the organization wants to appeal the determination;
3. The date and symbols on the determination letter;
4. A statement of facts supporting the organization's position in any contested factual issue;
5. A statement outlining the law or other authority the organization is relying on; and
6. A statement as to whether a hearing is desired.

The statement of facts (item 4) must be declared true under penalties of perjury. This may be done by adding to the appeal the following signed declaration:

"Under penalties of perjury, I declare that I have examined the statement of facts presented in this appeal and in any accompanying schedules and statements and, to the best of my knowledge and belief, they are true, correct, and complete."

Your appeal will be considered incomplete without this statement.

If an organization's representative submits the appeal, a substitute declaration must be included stating that the representative prepared the appeal and accompanying documents; and whether the representative knows personally that the statements of facts contained in the appeal and accompanying documents are true and correct.

An attorney, certified public accountant, or an individual enrolled to practice before the Internal Revenue Service may represent you during the appeal process. To be represented during the appeal process, you must file a proper power of attorney, Form 2848, *Power of Attorney and Declaration of Representative*, if you have not already done so. For more information about representation, see Publication 947, *Practice Before the IRS and Power of Attorney*. All forms and publications mentioned in this letter can be found at website, Forms and Publications. If you do not intend to protest this determination, you do not need to take any further action. If we do not hear from you within 30 days, we will issue a final adverse determination letter to you. That letter will provide information about filing tax returns and other matters.

Please send your protest statement, Form 2848 and any supporting documents to the applicable address:

Mail to:

Internal Revenue Service

Deliver to:

Internal Revenue Service

You may also fax your statement using the fax number shown in the heading of this letter. If you fax your statement, please call the person identified in the heading of this letter to confirm that he or she received your fax.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

Letter 4034 (CG) (11-20XX) 8  
Catalog Number 47628K

Robert S. Choi  
Director, Exempt Organizations  
Rulings & Agreements

Enclosure, Publication 892